

UNITED STATES DISTRICT COURT

for the

District of New Jersey

Division

Case No.

(to be filled in by the Clerk's Office)

Jason Zangara

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

National Board of Medical Examiners (NBME)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

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U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
RECEIVED

COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Jason Zangara
Street Address	573 Sidorske Avenue
City and County	Manville, Somerset
State and Zip Code	New Jersey 08835
Telephone Number	(908) 672-0626
E-mail Address	firefighterjazzvj@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	National Board of Medical Examiners (NBME)
Job or Title <i>(if known)</i>	
Street Address	3750 Market Street
City and County	Philadelphia
State and Zip Code	Pennsylvania ,19104
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question ☒ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

The Americans with Disabilities Act (ADA) 42 U.S.C. § 12101(b)(1); 42 U.S.C. §§ 12181-12189

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* Jason Zangara, is a citizen of the
State of *(name)* New Jersey.

b. If the plaintiff is a corporation

The plaintiff, *(name)*, is incorporated
under the laws of the State of *(name)*,
and has its principal place of business in the State of *(name)*.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* National Board of Medical Examiners, is a citizen of
the State of *(name)* Pennsylvania. Or is a citizen of
(foreign nation).

- b. If the defendant is a corporation
 The defendant, *(name)*, is incorporated under
 the laws of the State of *(name)*, and has its
 principal place of business in the State of *(name)*.
 Or is incorporated under the laws of *(foreign nation)*,
 and has its principal place of business in *(name)*.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

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III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

National Board of Medical Examiners (NBME)

- B. What date and approximate time did the events giving rise to your claim(s) occur?

This has been ongoing since 2016

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

I have been diagnosed with ADHD and Learning Disabilities since elementary school in which I have been treated for over the past 30 years. I see the physician on a regular bases and take medications daily. I have included the most recent testing results (See Attached "Exhibit A") I also have years of documentation dating back to elementary school that I will make available if needed. Currently, I am a medical student and in order to sit for the licensing exams we are required by our school to take and "pass" the examinations offered by NBME including Comprehensive Basic Science Exam, Comprehensive Clinical Science exam, shelf exams along with USMLE Step 1, 2 and 3. I have been trying for the past almost 6 years to pass the Comprehensive Basic Science Exam. This examination along with all others is discriminatory against myself and others because they do not give us a fair chance to prove that we are competent in what we are being tested on. All of these exams, (Comprehensive Basic Science Exam, Comprehensive Clinical Science exam, shelf exams along with USMLE Step 1, 2 and 3) are graded on a curve which compares me to a group of people who took the examination prior. I have included a copy of my most recent attempt to pass the Comprehensive Basic Science exam (See Attached "Exhibit B") They also automatically drop out the lowest percentiles. This does not comply with the requirements of the Americans with Disabilities Act which state that NBME is required to "assure that the examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills" 28 C.F.R. § 36.309. (See Attached "Exhibit C") These exams have recently been changed to "Pass/Fail" but they are still graded on a curve (See Attached "Exhibit D") Grading these exams on a curve or in comparison to others does not in any way test my proficiency to become a physician. They are scored based on how I compare to others that have taken the exam before. NBME will not allow me and others to "pass" because I do not compare the same as others who took the exam. NBME will not give me and others the chance to have our exams graded to assess how much we actually know. They have not released what the minimum standard would be such as 70% of the questions right for example. The whole point of the exams are to make sure that we can perform up to a certain level. NBME refuses to establish that level send does whatever they want. I should not be compared to a reference group of however many people too the same exam two years ago. That does nothing to show if I am competent. If the score of any exam is 70% to pass such as multiple licensing exams in the US, then that 70% is determined to be the standard to decide if someone knows enough about their field. This allows for those who are and who are not to perform up to the same level in order to be able to pass. NBME grades on a curve so these with a low score automatically fail. You can not grade on a curve without failing people on purpose. Those with disabilities will most likely dropped out. If given an example of the "passing" score of 70% was clearly enough to prove that the test taker was competent, NBME ignores it. They will apply a curve and say that the mean was 81% with a standard deviation of 5 so everyone with a score 71% or under fails. Even though 70% shows they are competent, you still fail because the OTHERS score higher and you have to score with them. Grading on a curve is unfair to begin with but in this case it is those with disabilities that suffer the most. People with true learning disabilities will have lower abilities to do things to begin with and there will always be a gap between what they can do and what others can do. That's how a disability is diagnosed. Here, by grading on a curve those who are disabled will always score lower. Included is an example of why it is unfair in the attached document on page 3 (See Attached "Exhibit E") But when they, myself included reach that minimum standard, NBME refuses to admit that we have met the standard or even provide one; and on top of that moves it away from us without telling is how far away it is.

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

Monetary damages are of no use to me and do not solve the issue. I want to be doctor and I have been held up for the past 6 years. The longer this goes on, the odds of me being able to secure a residency position diminish. These reasons are best detailed by the court in Rush v. National Board of Medical Examaminers which I have attached (See Attached "Exhibit F")

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I request that the Defendants the National Board of Medical Examiners (NBME) be enjoined from grading my exams (and the exams of others that are disabled) which include: The NBME Comprehensive Basic Science Exam, The NBME Comprehensive Clinical Science Exam, The NBME Subject Shelf Exams along with USMLE Steps 1, 2 and 3 on a curve and deciding passing or failing based on comparing me to others. I request that my exams that I have taken and will take in future be evalauted thier own merit to determine if I meet the objective requirments to practice medicine, not where I stand compaired to other test takers. These exams were originaly not curved and I request being graded on that previous standard (See "Exhibit F") The threatened injury to Plaintiff outweighs any damage that granting the preliminary injunction might cause at this time to the Defendant or to the public. The injunction will not disserve the public interest but will further the public interest in prohibiting discrimination by public entities, such as the National Board of Medical Examiners, on the basis of disability by fulfilling the ADA's requirement that entities offering licensing examinations provide reasonable accommodations to disabled individuals. (See "Exhibit F")

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.


A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3/17/22

Signature of Plaintiff

Printed Name of Plaintiff


JASON ZANGARA

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address